

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRIAN WILLIAMS,
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,
Defendants.

Case No. [23-cv-03584-YGR](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

After plaintiff sent the Court his 42 U.S.C. § 1983 complaint and application to proceed *in forma pauperis* (“IFP”) by regular mail from Correctional Training Facility, a facility which participates in prison email filing with this Court, the Clerk sent him a Notice to file his complaint and IFP application by prison email as required by General Order No. 76. Dkts. 4, 5. Plaintiff has not complied with these instructions or shown good cause for not doing so.

Accordingly, this federal civil rights action is DISMISSED without prejudice for failure to comply with the Clerk’s Notice and for failure to prosecute, *see* Federal Rule of Civil Procedure 41(b). His motion for leave to proceed IFP is DENIED as improperly filed. Dkt. 2. And his other pending motion, which was filed as a motion for a temporary restraining order (“TRO”), *see* Dkt. 6, is also DENIED because the parties to this action have not yet been served, and plaintiff has failed to satisfy either of the criteria under Rule 65(b) for granting a TRO or a preliminary injunction without notice to the adverse parties, *see* Fed. R. Civ. P. 65(a)(1) (prior to granting a preliminary injunction, notice to the adverse party is required), *see also* *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983) (motion for preliminary injunction cannot be decided until parties to action are served).

Because this dismissal is without prejudice, plaintiff may ask to reopen the action. To do


1 this, he must file (i) by prison email an exact copy of his complaint in accordance with the
2 instructions in the Notice and a motion with the words MOTION TO REOPEN written on the first
3 page; or (ii) by regular mail a motion for leave to file his complaint by regular mail, in which he
4 shows good cause why he cannot submit his documents electronically.

5 The Clerk of the Court shall terminate all pending motions and close the file.

6 This Order terminates Docket Nos. 2 and 3.

7 IT IS SO ORDERED.

8 Dated: October 31, 2023

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10 JUDGE YVONNE GONZALEZ ROGERS
11 United States District Judge
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